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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,371	08/19/2003	Douglas E. Ivers	IR-2966(ES)	4839

7590 05/19/2004  
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EXAMINER

PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/643,371

Applicant(s)

IVERS ET AL.

Examiner

Benjamin A Pezzlo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 5, 15 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-21 and 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2 September 2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Species I is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-4, 6-14, 16-21 and 23-28 have been examined on the merits.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-9, 11-14, 16-21 and 23-28 have been examined on the merits. are rejected under 35 U.S.C. 102(b) as being anticipated by Popjoy (US 4989700).

Popjoy discloses a pneumatic endstop surface effect damper, said pneumatic endstop surface effect damper comprised of an air piston housing 10 with an air piston inner housing wall defining an air piston inner chamber 36, an air piston 24 movable in an up stroke first direction and an opposite down stroke second direction inside said air piston housing and along said air piston inner housing wall, said air piston dividing said air piston inner chamber into a first upper variable volume chamber and a second lower variable volume chamber, said air piston including a lubricated viscous elastomer surface effect damper 42 which engages said inner wall and provides a surface effect damping of the piston moving along said inner wall, said air piston

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including a movable valve system actuated by a change in the stroke direction of said air piston wherein said movable valve system releases an air pressure from said upper variable volume chamber when said piston changes from said up stroke first direction to said opposite down stroke direction and releases an air pressure from said lower variable volume chamber when said piston changes from said down stroke direction to said up stroke direction.

Re claim 2, see chamber 32.

Re claims 3 and 4, see ring 42, which is inherently self-lubricating and greased in order to allow for the piston to travel up and down in the chamber.

Re claim 6, note that ring 42 provides a one way valve with lands at either end of the travel.

Re claims 7-9, see above rejection re claims 3 and 4.

Re claim 11, see Fig. 1.

Re claim 12, see above rejection re claim 1.

Re claim 13, see chamber 32.

Re claims 14 and 16-18, see ring 42.

Re claim 19, see Fig. 1.

Re claim 20, see above rejection re claim 1.

Re claim 21, see chamber 32.

Re claims 23-25, see ring 42.

Re claim 26, see above rejection re claim 1.

Re claim 27, see chamber 32.

Re claim 28, see above rejection re claim 1.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Popjoy in view of Bell (US 6725983).

Popjoy fails to disclose a check valve for providing inflow of atmospheric air. Bell discloses introducing atmospheric air into a damper for adjusting the characteristics of the damper. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided a valve according to Bell in a damper according to Popjoy in order to provide adjustability.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Corcoran et al., Jensen et al., Mintgen, Katcher, Taylor, Scott, Schafer, Kong, and Leitzman et al. disclose related devices.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Benjamin A Pezzlo*  
*5/17/04*

Benjamin A Pezzlo  
Examiner  
Art Unit 3683

BAP  
May 17, 2004